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| 09/738,852      | 12/15/2000  | John C. Horton       | RA-5373             | 1674             |

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| EXAMINER |
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SIDDIQI, MOHAMMAD A

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| ART UNIT | PAPER NUMBER |
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2154

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09/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/738,852

Applicant(s)

HORTON ET AL.

Examiner

Mohammad A. Siddiqi

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03/05/2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-18 are presented for examination.

#### ***Continued Examination Under 37 CFR 1.114***

2. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/05/2007 has been entered.

#### ***Claim Rejections - 35 USC § 112***

3. Regarding claim 12, the phrase " program called MAPPER substantially as presently " renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1, 3-11, and 13-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishiyama et al. (5,859,977) (hereinafter Nishiyama) in view of Ahmad et al. (5,925,127) (hereinafter Ahmad).

6. As per claim 1 and 13, Nishiyama discloses a System for assigning, each one of a plurality of versions of a software application to specific requests from specific users handled by a server (Summary of the invention, elements of 202,212,222, fig 2, col 5, lines 4-12 and col 8, lines 36-52, server is interpreted as a computer, system, device, or program on a network that processes request or manages network resources), wherein more than one of said plurality of versions of a said software application is available to service requests from users on said server, and wherein said specific users are provided access to said server by issuing requests to said server, and wherein said requests have a SiteID code in each said request

(summary of invention, elements of fig 2, col 5, lines 4-12 and col 8, lines 36-52, software maintenance and management is one of the service performed at the server), said system comprising:

a network listening program (401, fig 4) for receiving said requests by said users for use of a said software application program (col 5, lines,

a table (elements, fig 3) on said server (401, fig 4) containing correspondences between ones of a plurality of sites and ones of said SiteID codes (302, fig 3) said correspondences logically connecting a one of said more than one version of a said software application program to a one of said plurality of sites (701, fig 7) indicated by said SiteID code (col 8, lines 37-52 and col 7, lines 44-54), wherein said one of said plurality of sites has only one of said more than one version of a said software application program and at least one data area (elements Fig 3, col 8, lines 32-52),

an access control manager program for determining which one of said more than one version of a said software application program should be connected to each user request by reference to said table (col 10, lines 25-47),

a linking program for linking said a request to a site (col 13, lines 39-45).

Although Nishiyama shows substantial features of the claimed invention, Nishiyama does not particularly point out a network listening

program (web server). Nonetheless this feature is well known in the art. In an analogous art, Ahmad shows a system with a network listening program (web server) (75a, fig 2, col 9, lines 10-37). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to incorporate the detailed teachings of site management of Nishiyama into the rental server taught by Ahmad to provide access to different versions of software application over a wide area network.

7. As per claim 3, the claim is rejected for the same reasons as claim 1, above. In addition, Ahmad discloses wherein said access control manager program is part of said network listening program (75a, fig 2, col 9, lines 10-37).

8. As per claim 4, the claim is rejected for the same reasons as claim 1, above. In addition, Ahmad discloses linking program is part of said network listening program (75a, fig 2, col 9, lines 10-37).

9. As per claim 5, the claim is rejected for the same reasons as claim 1, above. In addition, Ahmad discloses network listening program comprises a web server (75a, fig 2, col 9, lines 10-37).

10. As per claim 6, the claim is rejected for the same reasons as claim 1, above. In addition, Ahmad discloses recording user information related to said each request (software monitor module, col 2, lines 20-25).

11. As per claim 7, the claim is rejected for the same reasons as claim 1, above. In addition, Ahmad discloses auxiliary recording program supports billing programs that can bill for client usage of particular ones of said plurality of sites (pay-per-use, col 2, lines 20-25; col 9, lines 10-37, software registry).

12. As per claim 8, Nishiyama discloses auxiliary recording program supports maintenance programs that improve server performance (col 7, lines 1-4).

13. As per claim 9, The claim is rejected for the same reasons as claim 1, above. In addition, Ahmad discloses a linking program for communicating requests and responses between a one of said plurality of sites and said client after a first request is handled by said network listener program (75a, fig 2, col 9, lines 10-37).

14. As per claim 10, the claim is rejected for the same reasons as claim 1,

above. In addition, Ahmad discloses said access control manager program spawns said linking program based on a said first request program (75a, fig 2, col 9, lines 10-37).

15. As per claim 11, Nishiyama discloses said software application is a database application (col 7, lines 42-53 and col 9, lines 1-29).

16. As per claim 14, the claim is rejected for the same reasons as claim 1, above.

17. As per claim 15, the claim is rejected for the same reasons as claim 1, above. In addition, Nishiyama discloses allowing said one version to process said information from said request and formulate a response responsive thereto, and returning said response to said user (col 24, lines 54-64).

18. As per claim 16, Nishiyama discloses said returning step comprises: passing said response to a communications program and communicating by said communications program information from said response to said user (col 2, lines 1-4 and col 24, lines 54-64, on-line).



19. As per claim 17, Nishiyama discloses spawning an independent communications process for handling communications between said site and said user (col 7, lines 44-56).

20. As per claim 18, Nishiyama discloses sending information identifying said user as having been connected to said one site to an auxiliary program (transmission path, col 4, lines 35-50).

21. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishiyama and Ahmad as applied to claim 1 above, and further in view of Bryan et al. (6,591,418) (hereinafter Brayn).

22. As per claim 2, Nishiyama and Ahmad do not disclose said table is a registry in a Microsoft Windows operating system. However, storing configuration in registry is well known in the art. Bryan discloses table is a registry in a Microsoft Windows operating system (col 7, lines 42-50). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Nishiyama and Ahmad with Bryan. The motivation would have been using NT registry to store the configuration data.

23. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nishiyama and Ahmad as applied to claim 1 above, and further in view of Mutschler et al. (5,974,430) (hereinafter Mutschler).

24. As per claim 12, Nishiyama and Ahmad fail to disclose said software application is the program called MAPPER substantially as presently available Unisys. However, Mutschler discloses said software application is the program called MAPPER substantially as presently available Unisys (col 6, lines 12-13). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to combine the teachings of Nishiyama and Ahmad with Mutschler. The motivation would have been using Unisys Mapper (database) product.

### ***Response to Arguments***

25. Applicant's arguments with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent 6,950,522

U.S. Patent 5,924,094

U.S. Patent 6,842,896

U.S. Patent 6,092,189

27. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad A. Siddiqi whose telephone number is (571) 272-3976. The examiner can normally be reached on Monday -Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Flynn can be reached on (571) 272-1915. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NATHAN FLYNN  
SUPERVISORY PATENT EXAMINER

MAS